

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDMUND GILCHRIST,

Plaintiff,

v.

KAREN HOGSTEN, et al.,

Defendants.

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CIVIL NO. 3:CV-06-0101

(Judge Caputo)

ORDER

Plaintiff, Edmund Gilchrist, formerly¹ an inmate at the Allenwood Federal Correctional Institution ("FCI-Allenwood") in White Deer, Pennsylvania, commenced this *pro se* action with a *Bivens*² civil rights complaint (Doc. 1). Subsequently, Plaintiff filed an amended complaint (Doc. 23) with leave of court. Defendants are current and/or former officials at FCI-Allenwood. Plaintiff claims that Defendants failed to follow appropriate administrative procedures prior to placing Plaintiff in the Special Housing Unit at FCI-Allenwood.

Currently pending is Defendants' Motion to Dismiss Plaintiff's Amended Complaint or, in the Alternative, for Summary Judgment. (Doc. 30). A Brief in Support of the Motion, a Statement of Material Facts, and exhibits were timely filed. Although

¹Plaintiff is currently confined in the United States Penitentiary in Atlanta, Georgia. See Docs. 18 and 19.

²*Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). *Bivens* stands for the proposition that "a citizen suffering a compensable injury to a constitutionally protected interest could invoke the general federal question jurisdiction of the district court to obtain an award of monetary damages against the responsible federal official." *Butz v. Economou*, 438 U.S. 478, 504 (1978).

Plaintiff's Brief in Opposition to the Motion and Counter-statement of Facts are now overdue, he has neither made an appropriate filing nor requested an extension of time in which to do so.

A dispositive motion generally may not be granted merely because it is unopposed. Since Local Rules of Court must be "construed and applied in a manner consistent with the Federal Rules of Civil Procedure," *Anchorage Assoc. v. Virgin Islands Board of Tax Review*, 922 F.2d 168, 174 (3d Cir. 1990), the disposition of an unopposed motion ordinarily requires a merits analysis.

Based on his failure to take any action in response to the pending motion, it would appear that Plaintiff may have abandoned interest in pursuing this matter. However, the court will grant additional time for the Plaintiff to respond to the Motion and direct him to file a Brief in Opposition, a Counter-statement of Facts, and any exhibits within twenty (20) days. If Plaintiff fails to oppose the Motion or otherwise communicate with the Court within twenty (20) days of the date of this Order, the Court will dismiss this case for failure to prosecute and failure to comply with a court order under Fed. R. Civ. P. 41(b).

ACCORDINGLY, THIS 14th DAY OF NOVEMBER, 2006, IT IS HEREBY ORDERED THAT Plaintiff shall file a Brief in Opposition to Defendants' Motion, a Counter-statement of Facts, and applicable exhibits, within fifteen (15) days of the date of this Order. If Plaintiff fails to timely oppose the Motion or otherwise communicate with the Court, the Court will dismiss the case for failure to prosecute and failure to comply with a court order under Fed. R. Civ. P. 41(b).

/s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge